

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

No. 6:16-cv-01206

**Gregory Dewayne Tennyson,**  
*Plaintiff,*

v.

**Bryce Hatton et al.,**  
*Defendants.*

Before BARKER, *District Judge*

**ORDER**

On this day, the court considered the findings of fact and recommendation of United States Magistrate Judge K. Nicole Mitchell regarding the second motion to dismiss filed by defendant Bryce Hatton in plaintiff's lawsuit complaining of an alleged use of force during an arrest.


Having conducted a proceeding in the form and manner prescribed by 28 U.S.C. §636(b)(1) and (3), the magistrate judge recommended that the second motion to dismiss be granted as to the state law claims against Hatton, but denied as to the Fourth Amendment claims of excessive force. Doc. 160. Plaintiff filed objections to the report asserting that the state law claims should not be dismissed because Hatton was sued in both his individual and official capacities and that Hatton should be held liable for the actions to which he has admitted. Doc. 162. Plaintiff's objections do not specifically identify any of the magistrate judge's findings or conclusions as being erroneous, and do not state a basis to reject the recommendation. *Id.*

Upon de novo review of the report and plaintiff's objections, the court finds the objections to be without merit and therefore **overrules** the objections. The findings of fact and recommendation of the magistrate judge (Doc. 160) are

hereby **adopted** as the opinion of the court. It is therefore **ordered** that defendant Bryce Hatton's second motion to dismiss (Doc. 155) is **granted** with respect to plaintiff's state law claims, and those claims are **dismissed with prejudice**. The second motion to dismiss is **denied** with respect to the plaintiff's Fourth Amendment excessive force claims.

It is further **ordered** that the remaining defendants, Bryce Hatton and Clayton Taylor, shall file a motion or motions for summary judgment, or a certification that disputed fact issues exist which preclude summary judgment, within 30 days of the date of entry of this order.

*So ordered by the court on May 21, 2020.*

  
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J. CAMPBELL BARKER  
United States District Judge